

SECOND REGULAR SESSION

SENATE BILL NO. 1286

92ND GENERAL ASSEMBLY

INTRODUCED BY SENATOR LOUDON.

Read 1st time February 23, 2004, and ordered printed.

TERRY L. SPIELER, Secretary.

4689S.011

AN ACT

To repeal sections 167.181 and 210.003, RSMo, and to enact in lieu thereof two new sections relating to immunizations.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Sections 167.181 and 210.003, RSMo, are repealed and two new sections enacted in lieu thereof, to be known as sections 167.181 and 210.003, to read as follows:

167.181. 1. The department of health and senior services, after consultation with the department of elementary and secondary education, shall promulgate rules and regulations governing the immunization against poliomyelitis, rubella, rubeola, mumps, tetanus, pertussis, diphtheria, and hepatitis B, to be required of children attending public, private, parochial or parish schools. Such rules and regulations may modify the **manner and frequency, including "zero" frequency, of the immunizations** [that are required of children] **which are specified** in this subsection. **Such rules shall not require immunizations not specified by this subsection.** The immunizations required and the manner and frequency of their administration shall conform to recognized standards of medical practice. The department of health and senior services shall supervise and secure the enforcement of the required immunization program.

2. It is unlawful for any student to attend school unless he has been immunized as required under the rules and regulations of the department of health and senior services, and can provide satisfactory evidence of such immunization **or otherwise acquired immunity**; except that if he produces satisfactory evidence of having begun the process of immunization, he may continue to attend school as long as the immunization process is being accomplished in the prescribed manner. It is unlawful for any parent or guardian to refuse or neglect to have his child immunized as required by this section, unless the child is properly exempted.

3. This section shall not apply to any child if one parent or guardian objects in

EXPLANATION--Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

writing to his school administrator against the immunization of the child, because of religious beliefs or medical contraindications. In cases where any such objection is for reasons of medical contraindications, a statement from a duly licensed physician must also be provided to the school administrator.

4. Each school superintendent, whether of a public, private, parochial or parish school, shall cause to be prepared a record showing the immunization status of every child enrolled in or attending a school under his jurisdiction. The name of any parent or guardian who neglects or refuses to permit a nonexempted child to be immunized against diseases as required by the rules and regulations promulgated pursuant to the provisions of this section shall be reported by the school superintendent to the department of health and senior services.

5. The immunization required may be done by any duly licensed physician or by someone under his direction. If the parent or guardian is unable to pay, the child shall be immunized at public expense by a physician or nurse at or from the county, district, city public health center or a school nurse or by a nurse or physician in the private office or clinic of the child's personal physician with the costs of immunization paid through the state Medicaid program, private insurance or in a manner to be determined by the department of health and senior services subject to state and federal appropriations, and after consultation with the school superintendent and the advisory committee established in section 192.630, RSMo. When a child receives his or her immunization, the treating physician may also administer the appropriate fluoride treatment to the child's teeth.

6. Funds for the administration of this section and for the purchase of vaccines for children of families unable to afford them shall be appropriated to the department of health and senior services from general revenue or from federal funds if available.

7. No rule or portion of a rule promulgated under the authority of this section shall become effective unless it has been promulgated pursuant to the provisions of chapter 536, RSMo. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2001, shall be invalid and void.

210.003. 1. No child shall be permitted to enroll in or attend any public, private or parochial day care center, preschool or nursery school caring for ten or more children unless such child has been adequately immunized against vaccine-preventable childhood illnesses specified [by the department of health and senior services in accordance with

recommendations of the Immunization Practices Advisory Committee (ACIP)] **in section 167.181, RSMo. The department of health and senior services shall promulgate rules and regulations governing the manner and frequency, including "zero" frequency, of the specified immunizations.** The parent or guardian of such child shall provide satisfactory evidence of the required immunizations.

2. A child who has not completed all immunizations appropriate for his age may enroll, if:

(1) Satisfactory evidence is produced that such child has begun the process of immunization. The child may continue to attend as long as the immunization process is being accomplished according to the ACIP/Missouri department of health and senior services recommended schedule; or

(2) The parent or guardian has signed and placed on file with the day care administrator a statement of exemption which may be either of the following:

(a) A medical exemption, by which a child shall be exempted from the requirements of this section upon certification by a licensed physician that such immunization would seriously endanger the child's health or life; or

(b) A parent or guardian exemption, by which a child shall be exempted from the requirements of this section if one parent or guardian files a written objection to immunization with the day care administrator. Exemptions shall be accepted by the day care administrator when the necessary information as determined by the department of health and senior services is filed with the day care administrator by the parent or guardian. Exemption forms shall be provided by the department of health and senior services.

3. In the event of an outbreak or suspected outbreak of a vaccine-preventable disease within a particular facility, the administrator of the facility shall follow the control measures instituted by the local health authority or the department of health and senior services or both the local health authority and the department of health and senior services, as established in Rule 19 CSR 20-20.040, "Measures for the Control of Communicable Diseases".

4. The administrator of each public, private or parochial day care center, preschool or nursery school shall cause to be prepared a record of immunization of every child enrolled in or attending a facility under his jurisdiction. An annual summary report shall be made by January fifteenth showing the immunization status of each child enrolled, using forms provided for this purpose by the department of health and senior services. The immunization records shall be available for review by department of health and senior services personnel upon request.

5. For purposes of this section, satisfactory evidence of immunization means a statement, certificate or record from a physician or other recognized health facility or personnel, stating that the required immunizations have been given to the child and verifying

the type of vaccine and the month, day and year of administration.

6. Nothing in this section shall preclude any political subdivision from adopting more stringent rules regarding the immunization of preschool children.

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